



**STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE  
REAL ESTATE APPRAISER COMMISSION  
500 JAMES ROBERTSON PARKWAY, SUITE 620  
NASHVILLE, TENNESSEE 37243  
615-741-1831**

**December 10, 2007  
Room 160, Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met December 10, 2007, at 8:30 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in Room 160. Chairman William R. Flowers, Jr. called the meeting to order, and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Herbert Phillips  
Marc Headden  
William R. Flowers, Jr.  
James E. Wade, Jr.  
John Bullington (Left at 1:15 p.m.)  
Kenneth Woodford

**COMMISSION MEMBERS ABSENT**

Jason West  
Dr. Edward A. Baryla

**STAFF MEMBERS PRESENT**

Nikole Avers, Administrative Director  
Patrick Merkel, Staff Attorney  
Angie Stephens, Administrative Assistant

**ADOPT AGENDA**

The commission voted to adopt the agenda. Mr. Headden made the motion to accept the agenda and it was seconded by Mr. Wade. Motion carried unopposed.

**MINUTES**

The November 2007 minutes were reviewed. Mr. Bullington made the motion to accept the minutes as written. It was seconded by Mr. Woodford. Motion carried unopposed.

## GENERAL BUSINESS

### Twenty-Four (24) and Thirty (30) Months Requirements – Proposed Policy 19

The requirement of twenty-four (24) or thirty (30) months of experience for licensure or certification was discussed. Mrs. Avers reported that there was need for an interpretation of this requirement. Office policy had always required applicants to submit on an experience log the number of months required worth of appraisals, though she stated applicants could skip months, there would need to be a total of either twenty-four (24) or thirty (30) months of experience on the experience log. A few applicants had encountered problems with this requirement when they would work for a number of months on a project, but only be able to show that one month of the effective date. They may have been registered as a trainee for longer than twenty-four (24) or thirty (30) months, but their experience log would only show (sometimes) half of that monthly experience allotment. Mrs. Avers stated she had contacted the AQB and the ASB regarding this and they had both stated that either going by the date they were registered to determine the monthly requirement or by showing the total experience as monthly on the experience log was sufficient. Since either way is allowed, Mrs. Avers asked the Commission to set a policy one way or the other as to which way the requirement would be interpreted in Tennessee for consistency in application. Mr. Headden made a motion that the policy be that it be from the date the trainee is registered (or licensed) to the end date of the experience log. Mr. Wade seconded that motion. The motion carried unopposed.

### Education Committee Report

Dr. Edward Barylka was not present for the Commission meeting; however, Mrs. Avers read his written recommendation into the minutes. Mrs. Avers stated that all of the courses listed were recommended for approval by Dr. Barylka. She further stated that for Individual course approval he recommended approval of all except Jonathan Skelton's two courses taken from the Georgia MLS Training Institute. She stated the reasoning behind the recommendation of denial was for both a lack of sufficient information and also that these courses were on-line courses which it has not been the policy of the Commission to approve on-line courses for qualifying education. Mrs. Avers stated that Dr. Barylka recommended approval of the Instructor approval for James Atwood. Mr. Phillips made the motion to accept the recommendation and Mr. Bullington seconded that motion. The motion carried unopposed. The following are the courses, instructor and individual course approvals from the education report:

### EDUCATION COMMITTEE REPORT December 10, 2007

Course Provider	Course Number	Course Name	Instructors	Credit Hours	Type
Dennis Badger & Associates	1146	Basic Income- Part B	Dennis Badger Thomas Viet	7	CE
	1147	Basic Income-Part A & B	Dennis Badger Thomas Viet	15	QE/CE
	1145	Common Deficiencies in the The Scope of Work	Dennis Badger Thomas Viet	3.5	CE

Mckissock	1149	On-Line The Evolution of Finance & The Mortgage Market	Alan Simmons	4	CE
	1150	Even Odder: More Oddball Appraisals	Ken Guilfoyle	7	CE
Appraisal Institute-Greater TN Chapter	1148	Evaluating Residential Construction	James Canestaro	8	CE

#### Individual Course Approval

Name	Course Provider	Course Name	Credit Hours	Type
Christopher Hall*	Appraisal Institute	On-Line-Eminent Domain & Condemnation	7	CE
*This course was approved on 9-19-07				
Jonathan Skelton	Georgia MLS Training Institute	75 Hour Qualifying Course (GA) (On-Line)	75	Not Approved
	Georgia MLS Training Institute	7 Hour USPAP Course Equivalent (On-Line)	7	Not Approved
James Warner	Charleston Trident Assoc. Of Realtors	Land 101	14	CE
Charles Tindell, III *	Fortune Academy	The Nature of Real Property & Value	30	QE
	Fortune Academy	Valuation Process	30	QE
	Fortune Academy	15 Hour USPAP	15	QE
	The Spearman Center	The Approach to Value Basic Income Property Appraising	30	QE
	The Spearman Center	The Income Approach to Value Advanced Income Property Appraisal	30	QE
	The Spearman Center	The Income Approach to Value Applied Income Property Valuation	30	QE

\* For Trainee Registration

#### INSTRUCTOR APPROVAL

Course Provider	Course Name	Instructors	Credit Hours	Type
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### **Applicant Conferences**

**John Anderson King** submitted an application for trainee registration and exam approval and had checked yes to the character questions on the applications. Mr. King stated that he was a whistle blower against a group of physicians who were participating in health care fraud. He stated that those individuals made false accusations against him to the West Virginia Medical Board that led to other medical boards suspending his license. He stated that he has a medical license in Tennessee with no disciplinary actions. He has active licenses in Tennessee, Georgia, Alabama, Florida, and New York and is Board certified. He stated he is disabled with a left hand injury, but still wishes to retain his license in Tennessee so that he can work part time with other physicians. He stated that appraising would be the majority of his work and that he would only be working as a physician ten to twelve days a year. Mr. Bullington made the motion to recommend approval of his trainee application. Mr. Phillips seconded the motion. The motion carried unopposed.

**Corie Jeanette Penick** submitted an application for trainee registration and exam approval and had checked yes to the character questions on the applications. Ms. Penick was accused of slapping her husband in September of 2007. She stated that this matter has since been settled. She went to marriage counseling and paid the court costs associated with this matter. She further stated that she and her husband have been getting along and have been to five or six marriage counseling sessions. Mr. Bullington asked if she was in the military. Ms. Penick stated she is in the military. Mr. Bullington made recommendation to grant her application request. Mr. Wade seconded the motion. The motion carried unopposed.

**Edgar James Wilson**, made application for a reciprocal license for certified general appraiser. Mr. Wilson had checked yes to character question 3 on the application. Mr. Wilson had voluntarily surrendered his West Virginia Appraisers license in 2005 for sixty days and was on probation for a further ninety days. He stated he has since been released from the suspension and probation by West Virginia. When asked he stated that the issue involved including the measurements from blue prints on an existing property and that he had not measured the house. There was a letter included with the application that referred to USPAP errors in an appraisal. He stated the letter was not in reference to the initial complaint but from the reviewed experience log that he submitted as part of his probation. Mr. Wilson stated he is currently a certified general in Virginia and West Virginia. Mr. Headden made a motion that the applicant submit an experience log of the most recent 500 hours of experience obtained by the applicant. From that experience log, three commercial appraisals should be chosen, by staff, for review by a Commission member. If the reports are found to be satisfactory, then the application can be approved. Mr. Headden further stated he would like to see all three approaches to value in the appraisals selected. Mr. Bullington seconded the motion. The motion carried unopposed.

### **Experience Interviews**

**John M. King**, made application to upgrade from certified residential to certified general appraiser. Mr. Headden and Mr. Flowers were the reviewers and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**John M. Broussard**, made application to upgrade from certified residential to certified general appraiser. Mr. Headden and Mr. Phillips were the reviewers and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**James Ray Plante**, made application to upgrade from certified residential to certified general appraiser. Mr. Headden and Mr. Bullington were the reviewers and recommended to hold application in pending status until completion of, at least, two additional reports to be reviewed of multi-tenant commercial properties. They stated they would like to see all three approaches to value used in these reports. In addition, they have recommended a fifteen hour narrative report writing course with exam. They stated no second experience interview would be required at this time. Mr. Phillips made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

**Rodney McManus**, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Headden was the reviewer and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**Relda Ann Adkins**, made application to upgrade from registered trainee to certified residential appraiser. Mr. Headden was the reviewer and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**Roger Miller Jr.**, made application to upgrade from licensed to certified residential appraiser. Mr. Phillips was the reviewer and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

**Jerry Limbaugh**, made application to upgrade from licensed to certified residential appraiser. Mr. Phillips was the reviewer and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

**Robert Knapp**, made application to upgrade from certified residential to certified general appraiser. Mr. Phillips and Mr. Flowers were the reviewers and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**Justin Briggs**, made application to upgrade from registered trainee to certified residential appraiser. Mr. Phillips was the reviewer and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

**Thomas M. Davis**, made application to upgrade from certified residential to certified general appraiser. Mr. Flowers and Mr. Bullington were the reviewers and recommended approval. Mr. Phillips made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**Clyde E. Hall**, made application to upgrade from licensed to certified residential appraiser. Mr. Flowers was the reviewer and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**Terry L. Kemp**, made application to upgrade from registered trainee to certified residential real estate appraiser. Mr. Flowers was the reviewer and recommended approval. Mr. Phillips made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

**Michelle Garrett**, made application to become certified general appraiser as an out of state applicant. Mr. Woodford was the reviewer and recommended approval only for the licensed appraiser credential. Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

**Adrian Hale**, made application to upgrade from licensed appraiser to certified residential appraiser. Mr. Woodford was the reviewer and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

**Jeffrey W. Ezell**, made application to upgrade from registered trainee to certified residential appraiser. Mr. Woodford was the reviewer and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

**Robert C. Cotten**, made application to upgrade from licensed to certified residential appraiser. Mr. Woodford was the reviewer and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

Mrs. Avers read the written recommendations from Mr. Bullington for the applicants he interviewed. Mr. Bullington left at 1:15 p.m.

**John Bryant Alsobrook**, made application to upgrade from registered trainee to certified residential appraiser. Mr. Bullington was the reviewer and recommended to hold application in pending status until completion of correction (in pencil) to one of the reports previously submitted. Also, send in one (1) additional report of single family residence for review. Mr. Bullington stated he would not be required to interview again if the reports were deemed acceptable. Mr. Headden made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

**David Wilkerson**, made application upgrade from registered trainee to certified residential appraiser. Mr. Bullington was the reviewer and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

**William L. Boue**, made application to upgrade from registered trainee to certified residential appraiser. Mr. Bullington was the reviewer and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

## LEGAL REPORT

The following Consent Orders were presented to the Commission for consideration of approval.

**William Chandler** – signed Consent Order agreeing that he violated USPAP Standard Rule 2-3 by failing to identify significant appraisal assistance which also violates Rule 1255-5-.01 and Tenn. Code Ann. 62-39-326 (5) and 62-39-329. Respondent agreed to pay a civil penalty of \$3,000 immediately upon executing this consent order and take a fifteen (15) hour USPAP course within three (3) months of this consent order which will not count towards continuing education credit.

**Theodore Ensley, Jr. and Pamela Davis** – signed Consent Order agreeing that they violated USPAP Standard Rule 1-4 (a), (b) and (c); 1-5 (a) and the Competency Rule by not competently performing the cost approach and the income approach and not adequately considering relevant data for the sales comparison approach. Respondents each agreed to take a fifteen (15) hour 2-4 Unit Case Study course with exam within three (3) months of execution of this consent order which will count towards continuing education credit.

**David Landes** – signed Consent Order agreeing that he violated Uniform Standards of Professional Appraisal Practice: the Competency Rule; Ethics Rule – Conduct Section; Standard Rule 1-6; and Tenn. Code Ann. 62-39-302 by appraising a property over the allowable limit for a licensed real estate appraiser and failing to discuss why the cost approach value was significantly less than the sales comparison approach value and the final value estimate. Respondent agreed to pay a civil penalty of \$2,500 immediately upon executing this consent order and take a fifteen (15) hour USPAP course from a different provider than the one previously use. This course will not count towards continuing education credit. The Respondent also agreed to take a thirty (30) hour basic appraisal procedures course with successful completion of the exam. This course will count towards continuing education credit. The above specified courses to be completed within three (3) months of executing the consent order.

**Thomas Ethridge** - signed Consent Order agreeing that he violated USPAP Standard Rule 1.4 (a) and Rule 1.1 (c) by failing to make appropriate adjustments to the comparable properties and made a series of errors of omission or commission that significantly affected the appraisal report. Respondent agrees to pay a civil penalty of \$4,000 immediately upon executing this consent order.

**Vote:** Mr. Headden made the motion to accept the consent orders and Mr. Phillips seconded the motion. The motion carried unopposed.

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### 1. L07-APP-RBS-2007081801: Two respondents. Mr. Bullington was the reviewer.

This complaint was filed by TREAC with allegations of representing a registered trainee as a licensed appraiser on appraisal reports, failure to identify exposure time in a market value appraisal, failure to source the definition of value, failure to analyze sales history of the subject property, failure to report the highest and best use analysis in the appraisal report, failure to analyze sales data, failure to analyze income data, failure to reconcile value indications, including misleading information in appraisal reports, failure to reconcile depreciation indications, failure to comply with the Competency Rule of USPAP, and failure to supervise a trainee in the performance

of an appraisal assignment due to appraisal submitted during the experience approval process for upgrade by the trainee.

The Respondent stated in his response letter that they don't understand the allegations and would like the Commission to elaborate further on the nature of these allegations.

*Respondent #1 has no prior complaints. Respondent #2 has had one dismissed.*

**Recommendation and reasoning:** Authorize for a consent order to be determined during informal conference and authorization for formal hearing, if needed, due to above noted USPAP violations.

**Vote:** Mr. Phillips made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

## **2. L07-APP-RBS-2007081881 The reviewer was Mr. Headden.**

This complaint was filed by the TN Department of Financial Institutions with allegations of over-valuing the subject property by inflating the gross living area of the dwelling.

No response was submitted by the Respondent.

### *Prior Complaint / Disciplinary History:*

*200003264 (Final Order \$10,750, educational courses, downgraded to LI)*

*200004623 (Same as above, administrative error)*

*200006595 (Final Order \$10,750, educational courses, downgraded to LI)*

*200100966 (combined with previous)*

*200100972 (Consent Order)*

*200101487 (Closed)*

*200104342 (Closed)*

*200207456 (Dismissed)*

*200207645 (Dismissed)*

*200418534 (Closed)*

*200500418 (Dismissed)*

*200500788 (combined with Final Order previously noted)*

*200600153 (Dismissed)*

*200600367 (Closed)*

*200705584 (Closed with a consent order including a 7 hour cost approach course and a 7 hour supporting adjustments in the sales comparison approach course)*

*200708188 (Open)*

**Recommendation and reasoning:** Recommendation for approval of formal hearing due to significant USPAP violations and previous complaint history with similar allegations and violations.

**Vote:** Mr. Headden made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.



**3. L07-APP-RBS-2007082491 Mr. Woodford was the reviewer.**

This complaint was filed anonymously with allegations of an unlicensed person conducting appraisals in Tennessee and another (licensed) appraiser signing the reports. No response was submitted by respondent; however, the address on file may not be correct. Because the alleged unlicensed person could not be found, the respondent licensee was sent a request for his experience log of all appraisals conducted in July and August of 2007. No response was received; however, the Respondent contacted legal counsel.

*No prior complaints.*

**Recommendation and reasoning:** Recommendation to close with a letter of warning regarding change of address. Respondent is a certified real estate appraiser in the state of Tennessee. The above complaint appeared to be filed due to confusion of identity because the Respondent uses his middle name in conducting appraisal business, but signs the reports with his legal name as filed with the Commission.

**Vote:** Mr. Headden made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**4. L07-APP-RBS-2007083771 Mr. Woodford was the reviewer.**

This complaint was filed by consumers who alleged that the Respondent committed intentional or negligent misrepresentations in the appraisal of their home by reporting appliances in the home when there were none as shown in the photos in the appraisal report. In addition, they alleged that the Respondent misreported the driveway material and stated that there was a covered patio when there is only a carport.

The Respondent states that he could not speak with the complainants about the appraisal because they are not his client, and this made them angry. Respondent states that complainants knew the appliances were a part of their buyer-seller agreement, and that no value was given for appliances in the report nor were they presented on the grid page and they had no significance in the value of the report. Respondent states he personally inspected and measured the property. He states there was a typo that stated an asphalt driveway existed instead of the concrete driveway.

*No prior complaints.*

**Recommendation and reasoning:** The appliances were included in the contract as an item to be provided by the seller. Mr. Woodford stated that he considered the report to be misleading and in violation of standards. The appraisal should have been as proposed or the appliances omitted from description if on an as is basis. In addition, there were significant seller concessions which were not properly handled in the appraisal. The contract was at \$95,000 but the deed is recorded at \$86,000. Seller, according to contract was to pay up to \$5,700 in closing costs. Mr. Woodford recommended a consent order which should include a **\$1,000 civil penalty and 15 hour USPAP course** with passing examination which would not count toward continuing education.

**Vote:** Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**5. L07-APP-RBS-2007084741 Mr. Wade was the reviewer.**

This complaint was filed by a concerned citizen on behalf of his mother. The allegation was that the Respondent took money for an appraisal fee from his mother for an appraisal but never delivered the appraisal. The Respondent has not responded to the complaint although the complaint was received on October 31, 2007.

**Prior Complaint / Disciplinary History:**

*200315778 (closed – alleged failure to complete an appraisal and unprofessional attitude)*  
*200421456 (dismissed – alleged unprofessional business practices)*  
*200602009 (dismissed – allegations of unprofessional conduct)*

**Recommendation and reasoning:** Recommendation for approval of an informal conference and formal hearing, if needed, due to possible violations of the PREAMBLE of USPAP and the Ethics Rule. It appears the appraiser has not promoted and preserved the public trust inherent in the appraisal practice by accepting appraisal fees and not providing an appraisal report. This Respondent has had past complaints of similar allegations that appear to represent a trend of behavior. The complaint states that the District Attorney's office has been contacted and a criminal complaint has been filed against the appraiser.

**Vote:** Mr. Headden made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**6. L07-APP-RBS-2007085431 Mr. Flowers was the reviewer.**

This complaint was filed by a consumer who alleged the Respondent appraised his residential property in a negligent and unprofessional manner. Further, the Complainant stated the report contained errors and omissions and revisions had to be requested. The Complainant stated that it was during this review process that he found out the Respondent had been placed on a "black list" by the mortgage lender and his report could not be accepted for that reason. He also stated the Respondent refused to refund his money for the appraisal.

The Respondent stated in his response letter that the borrower was upset because the appraised value was approximately \$50,000 less than the borrower expected. He also stated that this Complainant had purchased the home only two years previously. The Respondent stated there were recent comparable sales that would support the Complainants anticipated value.

**Prior Complaint / Disciplinary History:**

*199901544 – Closed with a Letter of Warning*  
*200104204 – Closed with a Letter of Warning*  
*200418536 – Closed - need info on outcome from legal department.*  
*200500151 – Closed - \$6,000 civil penalty paid, license downgraded until 02/14/08.*

**Recommendation and reasoning:** The respondent had a Certified General license that was downgraded to a Licensed Appraiser in 2005 and in this complaint the Respondent signed the appraisal as a Certified General. For that infraction, Mr. Flowers recommended charges and that he be brought in for an informal hearing and a formal hearing, if necessary.

**Vote:** Mr. Headden made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed. Mr. Phillips recused from vote on this matter.

7. **L07-APP-RBS-2007085441, L06-APP-RBS-2006036161, L07-APP-RBS-2007046851 and L07-APP-RBS-2007088611** Mr. Headden was the Reviewer.

**2006036161:** Respondent's license was revoked in Texas due to alleged over-valuing of a property and unresponsiveness to the complaint and hearing notices. Respondent never responded to the Texas complaint. The reciprocal discipline statute, public acts 2005, chapter no. 285, gives this commission the authority to discipline Respondent for the Texas revocation. *(Open)*

**2007046851:** This complaint alleges over-valuing the property, creating a misleading appraisal report and failure to report the sales/listing history. *(Open)*

**2007085441:** This complaint was filed by a consumer alleging the appraiser misreported property information including the owner and sales history. *(Open)*

**2007088611:** This complaint by review appraiser alleges USPAP violations. *(Open)*

Respondent had been slated for formal hearing based on the above complaints, however, his **license has expired** and the grace period for renewing that license has run as well. If Respondent wanted to regain his appraiser license, he would have to re-apply under the new 2008 criteria.

**Recommendation and reasoning:** Close based on expired license and flag the file should he re-apply for licensure or certification.

**Vote:** Mr. Phillips made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

8. **L07-APP-RBS-2007085641** Mr. Woodford was the reviewer.

This complaint was filed anonymously alleging that the Respondent advertised appraisal services in the newspaper and on his website after his license was revoked in August 2007. The Respondent states that the word "appraiser" that was listed under his picture on his website has been removed. Respondent states the delay regarding this removal was due to his web master, the person who designs and makes alterations to the site, being on a missionary trip in Romania. Respondent states that he no longer does appraisals, has health problems, and is not thinking of doing appraisals any longer.

*Prior Disciplinary History:*

*200005211 (Closed - course in Procedures)*

*200006598 (Combined with 200005211)*

*200104916 (Letter of Warning)*

*200210257 (\$1,000 civil penalty, 60 day suspension)*

*200314470 (Dismissed)*

*200315110 (Dismissed)*

*200418183(Combined with 200210257)*

*200500647 **License revoked 8/07.***

*200600365 (Letter of Warning)*

**Recommendation and reasoning:** Because the Respondent is no longer a licensed or certified appraiser and there is no evidence that he has been conducting appraisals, but there is evidence that the Respondent has continued to advertise that he is an appraiser, a recommendation for a Letter of Warning that the Respondent must not advertise, in a false or misleading manner, that he is an appraiser. This Warning would apply to both his advertisement on the internet and in the newspaper. The Ethics Rule of USPAP reads that, "Advertising for or soliciting assignments in a manner that is false, misleading, or exaggerated is unethical". T.C. A. **62-39-105 (a)** No person other than a state certified real estate appraiser under this chapter shall assume or use that title or any title, designation or abbreviation likely to create the impression of certification as a real estate appraiser by this state. **62-39-103 (a)** Except as provided in § [62-39-104](#), after December 31, 1991, it is unlawful for anyone to solicit an appraisal assignment, or prepare an appraisal or an appraisal report relating to real estate or real property in this state, without first obtaining a real estate appraiser's license or certificate.

**Vote:** Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

**9. L07-APP-RBS-2007086801 Mr. Flowers was the reviewer.**

Consumers filed the complaint alleging Respondent incorrectly measured the subject and reported the house as larger than it is. Respondent states the complainants felt that the house must be smaller because their furniture did not fit in the house as expected. Respondent stated that she measured the exterior of the house and that she included the bonus room over the garage. The Respondent also included as support for the square footage, two additional homes on the same street built by the same builder which had only a bay window difference between their square footages.

*No Prior Complaints.*

**Recommendation and reasoning:** Mr. Flowers recommended dismissing the charges due to lack of evidence of violations.

**Vote:** Mr. Phillips made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**10. L07-APP-RBS-2007069861 Mr. Headden was the reviewer.**

Respondent is a registered appraiser trainee. The complainant filed this complaint against respondent as well as several other appraisers. Respondent cannot be located, and the commission has been told by her former supervisor that she has moved away, cannot be located, but he is certain she is no longer in the appraisal business.

*No Prior Complaints.*

**Recommendation and reasoning:** Close and flag file. This trainee would have to appear before the commission should she apply for her license. Should she do so, this complaint could be re-opened at that time.

**Vote:** Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**11. L07-APP-RBS-2007087581 No reviewer assigned.**

The Complainant, Fannie Mae, alleged the Respondent over-valued the subject property by misreporting the neighborhood and using comparables not in a similar neighborhood to the subject when sales were available within the subject neighborhood. In addition, the Complainant alleged that the property characteristics of the comparable properties were misreported or omitted. The Respondent has three open complaints against him and has not responded to the last complaint.

*Prior Complaint / Disciplinary History:*

*200418209 (Dismissed)*

*200421173 (Open)*

*200705648 (Open)*

*200707114 (Open).*

**Recommendation and reasoning:** Staff recommends approval of this complaint for formal hearing and for it to be combined with above open complaints at formal hearing.

**Vote:** Mr. Phillips made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

**12. L07-APP-RBS-2007082361 The reviewer was Mr. Bullington.**

The Complainants, consumers, alleged the Respondent misreported gross living area because he included the below-grade unfinished utility room with the septic tank under it. They stated that the appraisal completed by the Respondent stated there was no moisture problem, but they allege that there are two springs underneath the cabin. They also alleged the comparables used were not similar to the subject property. In addition, the Complainants stated that the Respondent

misreported property characteristics such as the bedroom count, calling a deck a porch, misreporting the water source, garage access, septic tank functionality, foundation only under part of the house, and completed the appraisal "as is" when they felt it should be completed "subject to".

The Respondent stated that the house has no below grade areas and he believes the Complainants are confusing that term with the quality of construction. He stated the appraisal was completed "as is". He stated the unfinished area of the house was considered in the "functional depreciation" addendum and adjusted in the cost and sales comparison approaches. He stated that the subject property is not a manufactured house. He stated that he did not know why the complainant thought he misreported the bedrooms. He stated the rooms are labeled in the building sketch. He stated that the deck the complainant refers to could be called a porch as well as they serve the same functional utility and purpose. Further, he stated the visual observation of the water supply determined that the water comes from a spring in a creek and that tests were recommended in the environmental addendum. He states that it can clearly be seen in the photos that the garage/workshop has a door in the side of the building which automobiles can drive through. He states that the property is 23.54 acres and it is difficult to believe that a septic tank cannot be relocated on this property. He stated that there were no springs observed under the cabin on the day of inspection and that the video sent by the complainant appears to show water in the yard during a rain and that there doesn't appear to be any water flowing from under the house.

*Prior complaint history: two dismissed.*

**Recommendation and reasoning:** Letter of Instruction regarding selecting suitable comparables for atypical property and citing sources for the cost figures "for cost to cure".

**Vote:** Mr. Headden made the motion to accept recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

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Mr. Wade announced that he wanted it noted for the record that Mrs. Avers had been recently appointed to the AARO (Association of Appraiser Regulatory Officials) executive committee.

Mr. Flowers asked about the outcome of the recent field review by the ASC (Appraisal Subcommittee of Congress). Mrs. Avers stated that she believe that the ASC would remove Tennessee from the expedited review cycle and she further stated she believe Tennessee was no longer in danger of de-recognition by the Appraisal Subcommittee.

Being no further business, the meeting was adjourned at 2:00 p.m.

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Nikole Avers, Administrative Director

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William R. Flowers, Jr., Chairman